

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ELLIOT RAMONE MADDOCK,  
a/k/a Joseph Stevens,

Petitioner,

v.

Case No. 04-C-0768

DAN BENIK, Warden,  
Stanley Correctional Institution,

Respondent.

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**ORDER STAYING BRIEFING ON HABEAS CORPUS PETITION AND SETTING  
BRIEFING SCHEDULE ON RESPONDENT'S MOTION FOR SUMMARY JUDGMENT  
BASED ON UNTIMELINESS OF PETITION**

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Under the court's current scheduling order in this federal habeas corpus proceeding, the respondent's brief in opposition to petitioner Elliot Ramone Maddock's ("Maddock") brief was due to be filed no later than August 17, 2007. However, rather than file a brief in opposition to the petitioner's brief, on August 17, 2007, the respondent filed a motion for summary judgment based on the claimed untimeliness of Maddock's habeas corpus petition. At the same time, the respondent filed a motion to stay briefing on the merits of the habeas petition until the motion for summary judgment is resolved.

I have reviewed the file in this matter and note that the claimed untimeliness of Maddock's petition was raised by the respondent as an affirmative defense in his answer, which answer was filed on October 8, 2004. Consequently, I will grant the respondent's motion to stay the briefing on the merits of the habeas corpus petition until such time as the issue of the timeliness of the petition is

resolved. Furthermore, the schedule set forth below will govern the briefing on the respondent's motion for summary judgment on the issue of the timeliness of Maddock's habeas corpus petition.

**NOW THEREFORE IT IS ORDERED** that the respondent's motion to stay briefing on the merits of Maddock's petition for a writ of habeas corpus pending the resolution of respondent's motion for summary judgment on the issue of the timeliness of Maddock's habeas corpus petition be and hereby is **GRANTED**;

**IT IS FURTHER ORDERED** that petitioner Maddock shall file his brief and supporting materials in opposition to the respondent's motion for summary judgment no later than September 17, 2007; the respondent shall file his reply brief and supporting materials no later than October 2, 2007.

**SO ORDERED** this 20th day of August 2007, at Milwaukee, Wisconsin.

s/ William E. Callahan, Jr.  
WILLIAM E. CALLAHAN, JR.  
United States Magistrate Judge